

# **EXHIBIT 3**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

SEAN SMITH and CRYSTAL SMITH, )  
                                       )  
Plaintiffs,                         )  
                                       ) No.  
vs.                                 ) 5:17-cv-1302D  
                                       )  
CSAA FIRE & CASUALTY INSURANCE )  
COMPANY,                             )  
                                       )  
Defendant.                         )

VIDEOTAPED DEPOSITION OF TIM FRANCE  
TAKEN ON BEHALF OF THE PLAINTIFFS  
IN OKLAHOMA CITY, OKLAHOMA  
ON JANUARY 7, 2019

REPORTED BY: KAREN B. JOHNSON, CSR

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1 Q Yeah. I think it's confusing, too, I  
2 don't know why they do that. But for all intents  
3 and purposes, if I refer to CSAA, I'm talking about  
4 AAA; right?

5 A Okay.

6 Q Or a/k/a the defendant in this case, okay?  
7 But what I was getting at is in preparation for your  
8 deposition, did you review anything else besides the  
9 photographs and that report?

10 A No, sir.

11 Q And I wrote down all the questions I'm  
12 going to ask, so hopefully we can just cut through  
13 these and get out of here, all right?

14 Now, this is -- this report that you have  
15 in front of you, which is Exhibit Number 3, is not a  
16 report that you wrote; right?

17 A I did not write it.

18 Q How would you describe your role in this  
19 Smith investigation?

20 A Kind of a -- an assistant, kind of a  
21 colleague type of relationship.

22 Q You understand that this was -- do you  
23 understand that this was Ms. Lisa Holliday's first  
24 inspection for Rimkus?

25 A Yes.

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1 Q Did you go and act as maybe a guide for  
2 her?

3 A It's another word you could put on it.

4 Q And, again, this is kind of to figure out  
5 what your role is, but I want to understand if you  
6 were there just for support or if you were there  
7 to -- for her to shadow you.

8 A You could call it a mutual, because she --  
9 she had done seismic or earthquake stuff before.

10 Q Okay.

11 A It was just because it was first time with  
12 Rimkus.

13 Q Okay. Is it your understanding the  
14 engineer conclusions in this report were Lisa  
15 Holliday's conclusions?

16 A I understand that they are her -- they are  
17 her conclusions.

18 Q You weren't hired by the defendant in this  
19 litigation to provide an expert opinion in this  
20 litigation, were you?

21 A I'm not sure I understand that.

22 Q Have you been hired by the defendant to  
23 provide expert testimony?

24 A No, at least not to my knowledge.

25 Q You don't have any expert opinions in this

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1 A Yes.

2 Q And these are some of the same conclusions  
3 that you've come to while you're writing the --  
4 these inspection reports; right?

5 A Yes.

6 MR. FELTY: Object to form.

7 Q (By Mr. Engel) Did you and Ms.  
8 Holliday -- or did you or Ms. Holliday gather soil  
9 samples for this inspection?

10 A No.

11 Q Did either of you test the soil to  
12 determine the type of soil underneath the home?

13 A No.

14 Q Of the approximately 50 earthquake  
15 inspections you've done for Rimkus, have you ever  
16 tested the soil underneath the house?

17 A No.

18 Q Isn't it true the Rimkus reports always  
19 reference the USDA?

20 A I can't speak for all Rimkus reports, ones  
21 I do, yes, unless I specifically need it, and then I  
22 will get a geotech out there to do -- if it's  
23 warranted.

24 Q Sure. But you've never done that, you've  
25 never done a soil sample for an earthquake-related

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1 believe it's not necessary to go into the crawl  
2 space?

3 A Yes.

4 Q Why?

5 A There was nothing there that I saw that  
6 would justify going into it, and, too, if I remember  
7 correctly, there was no direct access to the crawl  
8 space.

9 Q Did you ever consider destructive  
10 investigation to get into there?

11 A No.

12 Q But that's something you could have done  
13 to access if there was no access point; right?

14 A We could propose it, have to get approval  
15 from the property owner then and the client to pay  
16 for the repairs.

17 Q And that's something you guys could have  
18 done; right?

19 A Could have.

20 Q I want to talk about the size of  
21 earthquakes, all right?

22 A Okay.

23 Q How do you measure the size of an  
24 earthquake?

25 A There's -- when you say "measure," by

1 A Yes.

2 Q Do you recall Crystal Smith ever asking  
3 either you or Dr. Holliday to look at anything as  
4 you all were leaving concluding the investigation?

5 MR. ENGEL: Asked and answered.

6 THE WITNESS: I don't recall that.

7 Q (By Mr. Andrews) Did Dr. Holliday ever do  
8 anything during the investigation that you feel  
9 degraded the Smiths or their home?

10 A No, she was very polite and nice if that's  
11 what you're getting at.

12 Q Did you ever do anything during the  
13 investigation that you feel degraded the Smiths or  
14 their home?

15 A No, sir.

16 Q The manager that you spoke of earlier,  
17 what was her last name?

18 A It's hard to pronounce, I'm not sure, it's  
19 M-A-U-G -- Maughan, something like that.

20 Q Maughan. Did Mrs. Maughan ever do  
21 anything during the investigation that you feel  
22 degraded the Smiths or their home?

23 A I do not.

24 Q You testified that you did not go into the  
25 attic and that Dr. Holliday did not go in the attic;

1 correct?

2 A Yes.

3 Q Why not?

4 A Didn't see the need for it.

5 MR. ENGEL: Asked and answered.

6 Q (By Mr. Andrews) Repeat that, please.

7 A Did not see the need for it.

8 Q Did you agree with the assessment of Dr.

9 Holliday that there was no need to go up into the  
10 attic?

11 A Yes.

12 Q Were you aware that there was access to  
13 the attic?

14 A Don't recall that.

15 Q Do you believe that there was a -- a need  
16 to go up into the attic or to ask for access to the  
17 attic?

18 A No.

19 Q You testified that you did not look into  
20 the crawl space and that Dr. Holliday didn't look  
21 into the crawl space; correct?

22 A Correct.

23 Q I'll represent to you that Dr. Holliday  
24 testified during her deposition that she was told by  
25 Mrs. Smith that there was not access to the crawl

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1 space, do you recall Mrs. Smith telling Dr. Holliday  
2 that?

3 MR. ENGEL: Objection to the form.

4 THE WITNESS: I don't, but I also don't  
5 recall finding access to the crawl space.

6 Q (By Mr. Andrews) Do you recall looking  
7 for access to the crawl space?

8 A Yes, particularly around the outside.

9 Q And do you recall ever asking Mrs. Smith  
10 for access to the crawl space?

11 A I don't recall if we did or didn't.

12 Q Is it possible that Dr. Holliday had asked  
13 Mrs. Smith for access to the crawl space without you  
14 being present?

15 A Oh, yes.

16 MR. ENGEL: Asked and answered.

17 THE WITNESS: Yes.

18 Q (By Mr. Andrews) Do you recall Dr.  
19 Holliday ever mentioning to you or indicating to you  
20 that there was not access to the crawl space at the  
21 Smith residence?

22 A Don't recall that.

23 Q Had there been access to the crawl space,  
24 do you believe that it was necessary to enter the  
25 crawl space to investigate the Smith home?

1 A No.

2 MR. ENGEL: Asked and answered and form.

3 Q (By Mr. Andrews) Will you repeat your  
4 answer, please?

5 A No.

6 MR. ENGEL: If you give me a little bit of  
7 time to object and then answer, it will be a little  
8 bit cleaner, all right?

9 THE WITNESS: Okay.

10 Q (By Mr. Andrews) You testified that there  
11 was no destructive testing at the Smith house, why  
12 was that not done?

13 A Didn't feel it was necessary.

14 Q You didn't take any soil samples at the  
15 Smith house, why was that not done?

16 A Typically do not.

17 Q Do you recall the condition of the soil  
18 while you were out at the house doing your  
19 investigation?

20 A It's covered with vegetation.

21 Q If you would, look at Exhibit 3A, which is  
22 Dr. Holliday's report.

23 MR. ENGEL: Should be the bottom.

24 MR. FELTY: Put the rest of that over  
25 there. Get this out of your way.

1                   THE WITNESS: That's why I didn't  
2 recognize it. Okay. Yes.

3                   Q       (By Mr. Andrews) On Page 3, which is  
4 Bates stamped CSAA\_Smith 0503, under the interview,  
5 could you please turn to that?

6                   A       Yes.

7                   Q       Do you recall Mrs. Smith ever raising any  
8 concern about a sag in the floor?

9                   MR. ENGEL: Asked and answered.

10                  THE WITNESS: No, I don't recall that.

11                  Q       (By Mr. Andrews) And it's not identified  
12 by Dr. Holliday in her notes regarding the initial  
13 interview with Crystal Smith; correct?

14                  A       Correct.

15                  Q       Is that something that normally would be  
16 placed in that intersection if Crystal Smith had  
17 raised concern about a sag in the floor of the  
18 living room?

19                  A       Yes.

20                  MR. ENGEL: Form.

21                  Q       (By Mr. Andrews) Also, there is nothing  
22 in the interview section which raises concerns about  
23 Crystal Smith with the living room wall -- living  
24 room wall leaning; is that correct?

25                  A       Correct.

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1 Q Do you recall Crystal Smith ever raising a  
2 concern to either you or Dr. Holliday regarding the  
3 living room wall leaning?

4 A No.

5 Q And do you recall Crystal Smith ever  
6 raising any type of concern that she feared that the  
7 wall might fall in the living room because it was  
8 leaning?

9 A No.

10 Q Now, obviously that would be something  
11 that would be written down in this report by Dr.  
12 Holliday if that was something that was raised by  
13 Crystal Smith as -- as a concern for her home;  
14 correct?

15 MR. ENGEL: Form.

16 THE WITNESS: Yes.

17 Q (By Mr. Andrews) You never told Dr.  
18 Holliday how to conduct her investigation at the  
19 Smith house; correct?

20 A No.

21 Q And you never told Dr. Holliday what the  
22 cause of damage was at the Smith house; correct?

23 A No.

24 Q You testified briefly earlier on about  
25 the -- doing soil samples for construction, but you

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1 haven't done any soil samples for investigation, do  
2 you recall that?

3 A Yes.

4 Q There's a difference between the need for  
5 soil samples for a construction project versus soil  
6 samples for an investigation; correct?

7 A Yes.

8 MR. ENGEL: Form.

9 Q (By Mr. Andrews) And I believe you  
10 testified you didn't believe the soil samples were  
11 needed for the investigation of the Smith home;  
12 correct?

13 A Correct.

14 Q Now, you also testified about floor  
15 elevation at houses and you said that a reasonable  
16 deviation of a floor was about an inch, I believe,  
17 do you recall that?

18 A Yes.

19 MR. ENGEL: Form.

20 Q (By Mr. Andrews) Is it common in older  
21 houses such as the Smith home that was built in 1920  
22 to have a greater deviation of floor levels?

23 MR. ENGEL: Objection to the form.

24 THE WITNESS: Can you restate that?

25 Q (By Mr. Andrews) Homes today are built